

States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 (Treaty Doc. 105-26), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term "indigenous inhabitants" as used in Article I means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article I, the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1998, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent to propound a parliamentary inquiry concerning the treaties that were agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, did the Chair actually count Senators on the division that took place with respect to the adoption of the resolution of ratification of those treaties?

The PRESIDING OFFICER. The Chair is required to and so did.

Mr. BYRD. I thank the Chair.

Mr. LOTT. Mr. President, those treaties were the Agreement with Hong Kong for the Surrender of Fugitive Offenders; the International Telecommunications Union Constitution and Convention; the U.S.-Mexico Treaty on Maritime Boundaries; the Migratory Bird Protocol with Canada; and the Migratory Bird Protocol with Mexico.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AUTHORIZING EXPENDITURES FOR CONSULTANTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 138, submitted earlier today by Senator WARNER and Senator FORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 138) authorizing the expenditures for consultants by the Committee on Rules and Administration.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 138) was agreed to, as follows:

S. RES. 138

Resolved. That section 16(b) of Senate Resolution 54, 105th Congress, agreed to February 13, 1997, is amended by striking "\$300,000" and inserting "\$400,000".

EXTRADITION TREATIES INTERPRETATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 196, S. 1266.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1266) to interpret the term "kidnaping" in extradition treaties to which the United States is a party.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1523

(Purpose: To provide substitute language for the text of the bill)

Mr. LOTT. Mr. President, Senator HELMS has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HELMS, for himself, and Mr. BIDEN, proposes an amendment No. 1523.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Extradition Treaties Interpretation Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year, several hundred children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;

(2) until the mid-1970's, parental abduction generally was not considered a criminal offense in the United States;

(3) since the mid-1970's, United States criminal law has evolved such that parental abduction is now a criminal offense in each of the 50 States and the District of Columbia;

(4) in enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204), Congress recognized the need to combat parental abduction by making the act of international parental kidnapping a Federal criminal offense;

(5) many of the extradition treaties to which the United States is a party specifically list the offenses that are extraditable and use the word "kidnaping", but it has been the practice of the United States not to consider the term to include parental abduction because these treaties were negotiated by the United States prior to the development in United States criminal law described in paragraphs (3) and (4);

(6) the more modern extradition treaties to which the United States is a party contain dual criminality provisions, which provide for extradition where both parties make the offense a felony, and therefore it is the practice of the United States to consider such treaties to include parental abduction if the other foreign state party also considers the act of parental abduction to be a criminal offense; and

(7) this circumstance has resulted in a disparity in United States extradition law which should be rectified to better protect the interests of children and their parents.

SEC. 3. INTERPRETATION OF EXTRADITION TREATIES.

For purposes of any extradition treaty to which the United States is a party, Congress authorizes the interpretation of the terms "kidnaping" and "kidnapping" to include parental kidnapping.

Mr. BIDEN. Mr. President, I am pleased that the Senate is today acting on the Extradition Treaties Interpretation Act. I appreciate the cooperation of the chairman of the committee, and the cooperation and assistance of the executive branch, in moving this bill forward.

The bill is very short, and I will not take the Senate's time to review it at length. In brief, the bill is designed to remedy a disparity in U.S. extradition law and practice. The disparity is this: under certain extradition treaties, the crime of parental abduction—when one parent takes a child in violation of law or a custody order and against the wishes of the other parent—is not extraditable. That is so for two related reasons.

The criminalization of parental abduction is a relatively recent development in U.S. criminal law. Prior to the mid-1970's, parental abduction was generally considered a family law matter not covered by criminal law. In the last two decades or so, U.S. criminal law has evolved significantly. All 50 states